

CITY COUNCIL, CITY OF LODI
COUNCIL CHAMBER, CITY HALL
SEPTEMBER 1, 1954

This regular meeting of the City Council of the City of Lodi held beginning at 8:00 o'clock p.m. of Wednesday, September 1, 1954; Councilmen Hughes, Mitchell, Richey, Robinson and Fuller (Mayor) present; none absent. City Manager Weller and City Attorney Mullen also present.

COMMUNICATIONS

WHYATT AND BURNETT RE FIRE HYDRANT	A letter dated August 30, 1954, from Mrs. Helen K. Whyatt and Mr. C. C. Burnett, calling the attention of the City Council to the fact that the City had installed a fire hydrant on their property at 1100 South Sacramento Street and asking for written notice as to when the City would remove said fire hydrant. Mr. Weller submitted a letter drafted for reply by the City Engineer explaining that the question of street width for South Sacramento Street was presently before the City Planning Commission and that there was a possibility that the hydrant would ultimately have to be moved to the interior of the lot if the width of the street was increased. The Council agreed that the reply was satisfactory.
PARKING PROBLEM S. CALIFORNIA & S. HUTCHINS	A petition was submitted signed by property owners on South California and Hutchins Streets between Lodi Avenue and Walnut Street requesting two-hour parking be established on above streets. The City Manager pointed out that the parking restrictions would apply to the residents of the abutting property as well as to the high school students presently causing the problem by parking on these streets throughout the day. On the motion of Councilman Hughes, Mitchell second, the Council voted that the matter be studied in conjunction with the school authorities and the property owners.
S.P. PARKING LOT DENIED FOR RUMMAGE SALES	A letter from the Soroptimist Club of Lodi requesting permission to use the Depot parking lot on North Sacramento Street to hold a rummage sale on September 24 and 25, 1954, the proceeds of which are to be used for charitable purposes. Councilman Richey recalled that the City had received many complaints regarding the condition of the lot last year when rummage sales were held on the lot. Mayor Fuller stated that he did not feel that the sales would hurt the lot, and the disadvantages were offset by the worthy purposes of the sales. City Attorney Mullen suggested that if the request was granted, the Police Department be instructed to place traffic barriers in the street in front of the area to protect anyone who might otherwise step out in front of the automobile traffic. On the motion of Councilman Richey, Robinson second, the Council denied the request with regrets and stated that it did not feel that such sales on public property was conducive to the good looks and pride of the City, by the following vote: AYES: Councilmen - Richey, Robinson and Mitchell NOES: Councilmen - Fuller and Hughes
DEPT. OF IND. RELATIONS CONFERENCE	Mr. Weller read a letter from the Department of Industrial Relations Commission of Housing inviting the City Council to attend a conference on housing held by the Commission in the City of Oakland, September 15, 1954.
THANKS FROM BUDDIST CHURCH	Mr. Weller read a letter from the Buddhist Church of Lodi, dated August 18, 1954, expressing the appreciation of the church for the assistance and cooperation of the City during the Buddhist Church Festival Dance and Bazaar.

PUBLIC HEARINGS

S. LEE AVE. This being the time and place designated for the hearing of
 LIGHTING DIST. protests to the formation of the Lee Avenue Street Lighting
 District for the installation of street lights on South Lee
 Avenue from Lodi Avenue to Kettleman Lane, Mayor Fuller called
 RES. NOS. for the receipt of such protests. City Clerk Graves read written
 1832, 1833, protests filed by Ray L. Blais and Elma H. Blais and by St. Paul's
 1834 & 1835 Lutheran Church. There were no oral protests offered. Finding
 that the protests represented owners of less than 50% of the
 assessed value in the proposed district, the Council adopted
 Resolution No. 1832, overruling the protest. The Council then
 adopted Resolution No. 1833, adopting the scale of prevailing
 wage rates, on the motion of Councilman Richey, Mitchell second.
 On the motion of Councilman Hughes, Richey second, Resolution
 No. 1834, ordering the work, was then adopted by unanimous vote.
 The Council then voted to adopt Resolution No. 1835, directing
 the assessment to be prepared.

HEARING ON This being the time and place designated for the receipt of pro-
 FAIRMONT AVE. tests by any and all persons interested in the work done in the
 LIGHTS CON- Fairmont Avenue Street Lighting District or in the assessment
 TINUED TO on file, Mayor Fuller called for such protests. Councilman
 SEPT. 15 Robinson stated that he was a property owner in the district
 and wished to protest that the lights installed appeared to
 be different from those installed on Church and Pleasant Streets.
 The City Clerk replied that this complaint had been received
 in his office and investigation had disclosed that the lights
 were not the same. The matter had been taken up with the con-
 tractor and would be corrected in the future. On the motion
 of Councilman Robinson, Richey second, the Council voted to
 continue the hearing to the next meeting, September 15, 1954.

HALL OF
 JUSTICE
 TO GO ON
 BALLOT

Mayor Fuller then presented the following statement:

"I have asked the City Attorney to rule on the legality
 of the initiative petition which certain opponents of the Hall
 of Justice site have said they propose to circulate. After
 studying the question, he advises me that there is considerable
 doubt of their legal right to do so, but that he believes a
 formal ruling through the courts would be necessary to answer
 the question finally.

"The original decision of the City Council on the site
 was made in September of 1952, following almost two years of
 public discussion. No evidence of any opposition appeared dur-
 ing the public discussion, and the first evidence of organized
 opposition was received by the City Council in June of 1953,
 more than nine months after the site decision had been made.

"As American citizens, all of us recognize the Con-
 stitutional rights of the initiative and referendum. These
 rights were given to the people as a part of our American system
 of 'checks and balances'. They are controls placed by the people
 on the legislative authority granted their elected representatives.
 Properly used, in accordance with the letter and spirit of the
 law, they contribute to our freedom, and in our way of life.
 If they are not properly used, they can obstruct the will of
 the majority and prevent the orderly processes of government.

"It should be obvious to all of us that if the
 initiative can be used to upset a legislative action as much
 as two years after that action is taken, no decision can be
 made by the elected City Council and no essential planning
 can be done.

"I am prepared to believe in this case that the people
 who propose this initiative did not realize the necessary and
 proper limitations placed by the people themselves on the ini-
 tiative process. I am prepared in the future, however, to
 insist that every action of this sort be taken in full conformity
 with the letter and the spirit of the law.

"I am proposing tonight that the City Council take action on its own initiative to call a special election consolidated with the General Election of November 2nd, at which the proposed ordinance prohibiting the use of the City Hall site will be submitted to the people. I make this proposal for the following reasons:

"1. If the initiative laws are applicable in this case, they permit a period of 6 months for the circulation of petitions, during which time no progress could be made toward provision of essential facilities.

"2. Since a question is involved as to whether the initiative laws apply, it would probably be necessary to process the matter through the courts. Further delays of a year or more would probably result.

"3. Under the initiative laws, if they apply, it would be necessary to call a special election separate from the coming General Election. Because of the requirements for Sample Ballots and other expenses, such a special election would cost our taxpayers as much as \$5,000. The cost of the consolidated election which I propose would be nominal.

"4. A separate special election would result in an expression of opinion by only a small part of the people. Consolidation with the General Election will insure that a majority of our registered voters will participate in the decision.

"The proposal which I make will not provide compliance with the initiative laws. It will insure that the ordinance requested by the opponents will be placed on the ballot, as they have asked. It will eliminate a great deal of unnecessary delay and expense. It will guarantee an expression by a majority of our people. While the proposition, if approved, will not be an initiative ordinance, I am willing to give my personal pledge that I will vote for it as a councilman if the people indicate in November that they want it adopted."

Mayor Fuller then placed his proposal in the form of a motion. Councilman Robinson seconded the motion after making the following statement:

"It appears to me that the former Council designated the site immediately east of the City Hall (which had been purchased in 1947 in anticipation of such use) as the definite location of the Hall of Justice when they authorized execution of a contract with architects Hurt, Trudell and Berger for plans and specifications for the building on September 3, 1952. These plans were accepted on February 18, 1953, by the Council and payments totaling \$12,958.50 have been made for same. On this same date, February 18, 1953, Mr. Charles Kobes was requested to vacate the lot anticipating that construction would start shortly.

"The subsequent delay on starting construction was not an abrogation of the former determination but merely a delay in light of the studies being made by Harold Wise and our Planning Commission on the Master Plan and, later, the impact of the proposed Industrial Development on the plans, to advise the Council if they, the Council, should change its determination of the site. Such studies and recommendations did not, in the judgment of the Council, warrant a change and said change has never been made by the Council. The 'go ahead' order of August 18, 1954, was in reality a reaffirmation of the action of September 3, 1952, and not a new action.

"If this action was an executive decision in conformity with the legal obligations which the City has, to provide adequate facilities for our municipal functions, such action would not be subject to referendum.

"If this action is legislative and thus subject to referendum, such action toward referendum should have been made within 30 days from the determination of the site by the Council on September 3, 1952. This was not done and therefore I do not believe that we can be bound by the initiative now proposed.

"However, since the date of the action might be questioned in court and the opposition probably would appeal any judicial decision favorable to us, we are faced with actions which would take months and might take years. Should the opinion of the court sustain the opposition, they would have six months from then to file their signed petitions. In any event we are faced with considerable delay. The urgency of the need to proceed with our plans is paramount.

"Therefore it appears to me that we should ask the voters to help thwart the small group which has for the past several months endeavored to stop progress. An expression at the polls in the November election can accomplish this with nominal cost to the City and save the cost of a special election which would amount to between three and five thousand dollars. This is a matter of EXPEDIENCY and ECONOMY and I am confident that the voters will back up the decisions of their elected officials and enable us to get on with the building of our fair city."

RES. #1836
AND 1837
ADOPTED
CALLING FOR
ELECTION AND
CANVASS OF
VOTE

The motion then passed by unanimous vote. Resolution No. 1836, "Calling for an Election in the City of Lodi and Requesting the Board of Supervisors of San Joaquin County to Consolidate Said Election with the State-wide Election to be Held November 2, 1954", was then adopted by a unanimous vote on the motion of Councilman Robinson, Mitchell second. Resolution No. 1837, "Authorizing Canvass of Result of Vote, Authorizing Reimbursement for Expenses Incurred and Directing Notice of Election to be Given", was then adopted by unanimous vote on the motion of Councilman Mitchell, Richey second.

REPORTS OF THE CITY MANAGER

ALLEY
BETWEEN
RIMBY AND
TAMARACK

The City Manager presented a memorandum from the City Engineer recommending that the City Council abandon the west 224 feet of the alley in the Knoll Subdivision lying between Rimby Avenue and Tamarack Drive. In a profile submitted to the Council, the City Engineer demonstrated that the alley slopes to the east for the first 230 feet and to the west over the remainder of the alley. He proposed that the eastern 260 feet be graded and surfaced so as to provide drainage out to Hutchins Street and the western 224 feet be abandoned, since this portion would be difficult and expensive to drain. He pointed out that access to garages is necessary over the eastern 260 feet. Councilman Robinson stated that he felt it would be sufficient to grade and surface the eastern portion and the western portion could be maintained in its present condition. Mr. Weller raised the question of the City's liability in the event the City accepted the eastern portion for maintenance and did not abandon the western portion. City Attorney Mullen investigated the final map of the Knoll Subdivision and found that the map had been filed with the Board of Supervisors of San Joaquin County and that the streets and alleys on said map had been accepted by the County only after improvement to County standards. On the motion of Councilman Hughes, Robinson second, the Council voted to leave the matter open pending further study.

CLAIMS

Claims in the amount of \$170,519.31 were approved on the motion of Councilman Richey, Mitchell second.

RES. #1839
AWARD CRUSHER
RUN BASE TO
C.C. WOOD CO.

The City Manager reported that one bid had been received for the crusher run base, specifications for which had been approved at the previous Council meeting, from Claude C. Wood Company. The bid was in the amount of \$2,703.75 which conformed with the estimate of the City Engineer. He therefore recommended the award to Claude C. Wood in the amount of the bid. On the motion of Councilman Mitchell, Hughes second, the Council voted to adopt Resolution No. 1839, awarding the contract to Claude C. Wood Co.

ANNUAL AUDIT
TO GEORGE L.
JOHNSON

Mr. Weller then reported the receipt of bids for the City's annual audit, the lowest and best bid being that of George L. Johnson in the amount of \$900. The Council voted to award the job to George L. Johnson on the motion of Councilman Hughes, Richey second.

HEARING ON
CURB & GUTTER
LOT 18
BARNHART TR.

The City Attorney informed the Mayor that a public hearing had been set by the City Engineer for the purpose of hearing protests to the installation of curb and gutter on a portion of Lot 18 of the Lodi Barnhart Tract under the provision of the Improvement Act of 1911. The property affected is under the ownership of Georgia Heuer and James Heuer. Affidavits of mailing and posting of "Notice to Construct Curb and Gutter" were presented. Mayor Fuller then called the hearing of protests to said curb and gutter construction. There being no protests received, either oral or written, the City Council determined that there was no objection to said curb and gutter construction.

CITY PLANNING COMMISSION

MARSHALL &
NEWFIELD
APPOINTED TO
PLAN. COM.

Mayor Fuller announced that the terms of Lindsay P. Marshall and John Blakely had expired as of June 30, 1954. He then appointed Lindsay P. Marshall to succeed himself and Joe K. Newfield, Jr., to succeed Mr. Blakely. The appointment of Marshall and Newfield was then approved on the motion of Councilman Richey, Hughes second.

VOTING
POSITIONS OF
CITY ENGINEER
& BUILDING
OFFICIAL
DECLARED
VACANT

Mayor Fuller then read identical letters submitted by City Engineer Heckenlaible and Building Official Wallace Norum, stating that they were aware that consideration was being given to the appointment of additional lay-members to the Planning Commission and the accompanying possibility of retaining the two administrative staff members of the Commission in an advisory, non-voting capacity, and that they were in full accord with whatever decision the Council wished to make on the matter. On the motion of Councilman Robinson, the Council then declared the voting positions on the Planning Commission occupied by the City Engineer and Building Official vacant.

E. WALTER &
W. ROTT
APPOINTED TO
PLAN. COM.

Mayor Fuller then announced the appointment of Mr. Edward Walter and Mr. Walter T. Rott to the new vacancies for terms to expire on June 30, 1955 and June 30, 1956, the respective terms of the individuals to be determined by lot by the City Planning Commission. The appointments and the conditions of appointment were then approved by the City Council on the motion of Councilman Robinson, Richey second.

RES. #1838
ENGINEER AND
BLDG. OFFICIAL
ADVISORY MEM.

Resolution No. 1838, appointing the City Engineer and Building Official to the City Planning Commission as advisory members, was then adopted on the motion of Councilman Richey, Mitchell second.

ROBINSON
RETAINED ON
PLAN. COM.


Councilman Robinson asked the Mayor if it would then be in order to consider a replacement to his position as the Council member of the Planning Commission. Mayor Fuller stated that it would be his pleasure if Councilman Robinson would continue to serve on the Planning Commission.

TRUCK TRAVEL
ON HOLLY DR.

Councilman Robinson then asked that the proper officials be instructed to place proper signs on Holly Drive between Ham Lane and Turner Road to prohibit truck travel over that street. After further discussion regarding the vehicles to be excluded and the method of enforcement, the Council decided to leave the matter to the City Manager to work out for the next meeting.

On the motion of Councilman Richey, the meeting was adjourned at 9:55 o'clock p.m.

ATTEST:


HENRY A. GLAVES, JR.
City Clerk